उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(13)

मामला क्रमांक Cr.A. 567 सन् 2001

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 567 OF 2001

DIVISION BENCH: **HON. SHRI L.C. BHADOO, &**
HON. SHRI DHIRENDRA MISHRA, JJ

APPELLANT Ramgopal, S/o Ganeshram Pradhan Aged 35 years, R/o Karra, P.S. Ratanpur, District Bilaspur (C.G.)

Versus

RESPONDENT State of Chhattisgarh Through P.S. Ratanpur, Distt. Bilaspur (C.G.)

Present:

Mr. D.R. Sharma, Sr. Advocate with Ms. Anita Singh, counsel for the appellant.

Mr. Ashish Shukla, Govt. Advocate with Mr. Akhil Mishra, P.L. for the State.

ORAL JUDGMENT

(27th April 2007)

PER L.C. BHADOO, J

This appeal is directed against the judgment of conviction and order of sentence dated 7th June 2001 passed by I Additional Sessions Judge, Bilaspur in Sessions Trial No. 36/2000 whereby learned Additional Sessions Judge after holding the accused/appellant guilty under Sections 302 of the IPC for committing the murder of his wife Rukmani, sentenced him to undergo imprisonment for life and pay a fine of Rs.2,000/-, in default of payment of fine to further undergo R.I. for six months.

GF 50,000.

XI-HC—78

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(14)

मामला क्रमांक CRA. 567 सन् 200/

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

2. Case of the prosecution, in brief, is that on 23.6.2000 at about 1.30 p.m. accused attacked his wife Rukmani (since deceased) with axe, in village Karra, P.S. Ratanpur and committed her murder. The matter was reported by Chhatraprakash @ Vikky on the same day at about 4.30 p.m. in the police station stating that his father used to doubt his mother to be a witchcraft, at about 1.30 p.m. he was talking to his friend Bhaskar Pradhan and Surendra, at that time his father came out from the house and stated that he has committed the murder of my mother. He rushed towards the house and saw that his mother was lying dead, there were grievous injuries on her neck caused by axe. The investigating officer after receiving this report, left for the scene of occurrence and prepared the inquest (Ex.P/4) on the body of deceased Rukmani. The accused while in police custody, gave memorandum Ex.P/6 regarding the place where he had kept the axe, in pursuance of that he got recovered the axe under Ex.P/7. The full-pant and shirt of the accused were seized under Ex.P/8. Dead body of Rukmani was sent to Primary Health Centre, Ratanpur under Ex.P/11-A where Dr. N.K. Samdaria (PW-6) conducted postmortem and prepared the postmortem report (Ex.P/11) in which he opined that deceased died instantaneously due to grievous injuries causing shock and haemorrhage, within 24 hours. The axe in question was sent for examination to the doctor under Ex.P/12-A and after examination doctor gave his report Ex.P/12 and opined that injuries found on the body of

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

deceased Rukmani could be caused by the axe in question. Seized articles were sent for chemical examination to Forensic Science Laboratory, Bilaspur under Ex.P/25 from where report Ex.P/26 was received.

3. After completion of investigation charge sheet was filed in the Court of Chief Judicial Magistrate, Bilaspur, who in turn committed the case to the Sessions Judge, Bilaspur from where learned Additional Sessions Judge received the case on transfer for trial.

4. Prosecution examined 14 witnesses in order to establish the charge against the accused. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him in the prosecution evidence and stated that he is innocent and has been falsely implicated in the crime.

5. Learned Additional Sessions Judge after hearing counsel for the respective parties, convicted and sentenced the accused as aforementioned.

6. We have heard Mr. D.R. Sharma, Sr. Advocate with Ms. Anita Singh, counsel appearing on behalf of the accused/appellant and Mr. Ashish Shukla, G.A. with Mr. Akhil Mishra, P.L. for the State/respondent.

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मामला क्रमांक Cr.A.-567 **सन् 200/**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

7. Mr. D. R. Sharma, has not disputed the homicidal death of Rukmani. Moreover, from the ocular evidence of PW-2 Amit Kumar and medical evidence of Dr. N.K. Samdaria (PW-6), who conducted postmortem on the body of deceased Rukmani, noticed that there were five incised wound on the neck, injuries were ante mortem in nature and grievous and death was homicidal in nature, it is established that death of Rukmani was homicidal in nature.

8. As far as involvement of the accused/appellant in crime in question is concerned, PW-1 Chhatraprakash @ Vikky, son of the accused, has turned hostile and he has resiled from his earlier statement that accused made extra judicial confession before him that he has committed the murder of his mother. Therefore, the only evidence regarding involvement of the accused in crime in question is of PW-2 Amit Kumar @ Lalu who has stated that on the fateful day at about 1.00 to 1.30 p.m. he was standing beside the pole near the house of Parmeshwar, at that time wife of the accused came out of the house crying, accused was chasing her carrying axe in his hand and when accused lifted the axe to assault Rukmani, he ran away. Rukmani was crying "save, save". He went and informed Vikas. Thereafter, when he came back with Vikas, he saw that Rukmani was lying on the ground, she had died and there was injury on her neck. This witness has not been cross-examined on the aspect that whether, in fact, he witnessed the accused chasing Rukmani carrying axe in his hand, Rukmani

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आदेश पत्रक (पूर्वानुबद्ध)

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crying "save, save", therefore, there is no reason before this Court to disbelieve the evidence of this witness. Moreover, the evidence of this witness stands corroborated by the circumstantial evidence that the full-pant and shirt of the accused were seized under Ex.P/8 from his possession and the same were sent to F.S.L., Bilaspur from where report Ex.P/26 was received, according to which the seized full-pant ~~and shirt were~~ found stained with blood. Even as per the evidence of investigating officer Praveen Rai (PW-14), the accused while in police custody gave memorandum Ex.P/6 to the effect that he has kept the weapon of offence axe in his house, pursuant to which the axe was got recovered at the instance of the accused under Ex.P/7. The axe was also sent for chemical examination to F.S.L., Bilaspur and as per report of the laboratory, the axe was also found stained with blood. Moreover, the doctor who examined the axe in question, has opined that injuries present on the body of deceased Rukmani could be caused by the said axe. Therefore, it emerges from the evidence on record that in fact Amit Kumar (PW-2) witnessed the accused chasing Rukmani, she was crying "save, save", when accused lifted the axe to assault Rukmani, he being frightened ran away and went to inform Vikas and by the time he returned Rukmani was lying on the ground in an injured condition. The above evidence further stands corroborated by the fact that the axe in question was found stained with blood, full-pant & shirt of the accused was found bloodstained and as per the evidence of Dr. Samdaria (PW-6) the

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -6-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	injuries present on the body of deceased could be caused by the axe in question. 9. For the reasons stated above, we do not find any illegality or infirmity in the impugned judgment of the trial Court. The appeal being devoid of substance deserves to be dismissed and is hereby dismissed. **Sd/-** **L.C. BHADOO** **Judge**	**Sd/-** **Dhirendra Mishra** **Judge**

GRPRJ — FS/246— 2/2007 — 50,000.